APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,175	03/26/2001	Stephen G. Perlman	04259P013X	2377

7590 11/09/2004	EXAMINER
Thomas C. Webster	BECKER, SHAWN M
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP	

ART UNIT	PAPER NUMBER
2173	

Thomas C. Webster
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _21 September 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-60_ is/are pending in the application.

    4a) Of the above claim(s) _31-60_ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-30_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to correspondence filed 9/21/04.

Information Disclosure Statement

The IDS filed 9/21/04 has crossed out references in the U.S. Patent Documents, because these documents were already previously cited by the IDS filed 4/23/04 and by the Examiner, respectively. The "Other Documents" that are crossed out are not publications.

Election/Restrictions

1.   Newly submitted claims 31-60 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 31-60 (Group II) are related to claims 1-30 (Group I) as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, Invention I (claims 1-30) has separate utility such as displaying a potential list of words that may be selected by any of a variety of input devices (i.e. a mouse) and does not pertain to the specifics of the character-entry device. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group I (claims 1-30) is not required for Group II (claims 31-60), restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented

invention, this invention has been constructively elected by original presentation for prosecution

on the merits. Accordingly, claims 31-60 are withdrawn from consideration as being directed to

a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

2.   Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent

No. 6,564,213 to Ortega et al. (hereinafter Ortega) and U.S. Publication No. 2003/0014753 to

Beach et al. (hereinafter Beach).

Referring to claims 1, 11, and 21, Ortega discloses a method, system, and article of

manufacture that detects a first word entered by a user with a character-entry device (col. 3, lines

12-19) and provides a potential list of second words to the user (i.e. Fig. 2B), the potential list of

second words selected based, at least in part, on how frequently a string/phrase (multimedia

program) whose name includes one of the second words has been selected, sold, etc. (i.e. based

on popularity). See col. 4, lines 9-19 and 28-33 and col. 6, lines 26-36 and 63-67.

While the method of Ortega may clearly be used to search for all types of information,

including multimedia, Ortega does not explicitly state that the method is for selecting a

multimedia program within an entertainment system and that the first and second words are for a

multimedia program. However, Beach teaches an input method for selecting words similar to

that of Ortega, which is used for inputting and selecting television programs (multimedia

programs), wherein a potential list of second words that may follow the first word are displayed.

See Figs. 4 and 5 and page 2, paragraph 0021, for example. It would have been obvious to one

of ordinary skill in the art to use the auto-completion/selection method of Ortega for selecting

multimedia programs within an entertainment system as shown in Beach in order to quickly

select/retrieve a desired program/show out of the many programs that are offered as supported in

Beach.

Ortega teaches basing the potential list of words on popularity, as described above, and

the number of times a program is played in the method/system of Ortega and Beach is a measure

of popularity. Therefore, it would have been obvious to one of ordinary skill in the art to base, at

least in part, the potential list of second words of Ortega and Beach on the frequency with which

a multimedia program is played, because the most popular programs are the most likely to be

selected as supported by Ortega.

Referring to claims 2, 12, and 22, Ortega discloses ordering the potential list of second

words based at least in part, on the probability that each word in the potential list of second

words will be selected by the user following the first word. See col. 1, lines 14-28 and 50-54 and

col. 4, lines 9-14.

Referring to claims 3, 13, and 23, Ortega and Beach, *supra*, disclose detecting a second

word of the multimedia program selected or entered by the user with a character-entry device

and provide a potential list of third words of the multimedia program to the user, the potential list

of third words selected based, at least in part, on how frequently a phrase (multimedia program)

that includes one of the third words has been selected (played). Clearly, the user of Ortega and

Beach may enter a new search word in the query field in Fig. 2B, which changes the list of

suggested words. Furthermore, Ortega teaches that the query entry process is comprised of

strings, which may be words or phrases (i.e. a first and second word), and then the auto

completion suggests a word (i.e. third word) or phrase. See col. 1, line 65 - col. 2, line 20. Also,

see col. 4, lines 9-19 and 28-33.

Referring to claims 4, 14, and 24, Ortega and Beach, *supra*, teach ordering the potential

list of second words based, at least in part, on how frequently a phrase/string (multimedia

program) whose name includes one of the second words has been selected (played). See col. 4,

lines 9-19 and 28-33, which describe ordering the list based on popularity.

Referring to claims 5, 15, and 25, the second word of Ortega may be entered manually by

the user (i.e. via the keyboard) using the character-entry device. See col. 2, lines 14-15. It may

also be selected by the user from the potential list of second words. See col. 2, lines 36-40 and

col. 5, lines 36-54.

Referring to claims 6, 16, and 26, Ortega teaches recording selection of the second word

following the first word in a database. See col. 4, lines 1-52.

Referring to claims 7, 17, and 27, Ortega discloses linking the second word to the first

word in the database. See col. 1, lines 25-27, which describes suggesting terms that frequently

appear in combination, which requires tracking which words appear in what combination (i.e. the

first and second word).

Referring to claims 8, 18, and 28, Ortega discloses storing the number of times that the

user has selected the second word following the first word. See col. 4, lines 28-33, which

describes monitoring the frequency (number of times) a query (completed selection of first and

second word) is submitted, and that this may be customized for each user.

Referring to claims 9, 19, and 29, Ortega calculates a first probability that the second

word will be selected by the user based, at least in part, on the number of times. See Fig. 5, 86,

which shows that a score (probability) is assigned to the search terms (completed selection of

first and second words in the query).

Referring to claims 10, 20, and 30, Ortega discloses calculating a second probability that

the second word will be selected by the user by combining the first probability with a probability

derived from how frequently a phrase (multimedia program) that includes one of the second

words is included in the database, and selecting the potential list of words based, at least in part,

on the second probability (score). See col. 6, lines 27-36.

Response to Arguments

3.   Applicant's arguments with respect to claims 1-30 have been considered but are moot in

view of the new ground(s) of rejection.

Applicant argues that Ortega does not relate to selecting a multimedia program within an

entertainment system. However, Ortega discloses searching for music titles (i.e. col. 4, line 60 –

col. 5, line 4) along with various other types of information. Beach is directed at selecting

multimedia programs within an entertainment system and uses an auto-completion method

similar to that of Ortega. The combination of Ortega and Beach results in a system for selecting

multimedia programs within an entertainment system in an efficient manner.

Applicant argues that Ortega does not consider how many times a multimedia program

has been played and states that there are many ways to play a multimedia program other than

through the use of a search query. It should be noted that no other way of playing a multimedia

program is presented in the claims. Furthermore, the number of times a program is played is a

factor in its popularity, and Ortega clearly teaches basing the list of words on popularity (i.e. col.

6, lines 33-34).

Applicant argues that Ortega does not teach combining two types of probability (based on user preference and incidence). However, col. 6, lines 26-36 describe giving each phrase (i.e. multimedia program) a score (probability) based on popularity (preference) and frequency of occurrence within the database (incidence).

Claims 31-60 are withdrawn from consideration; therefore, Applicant's arguments with respect to claims 31-60 are moot.

Conclusion

4.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
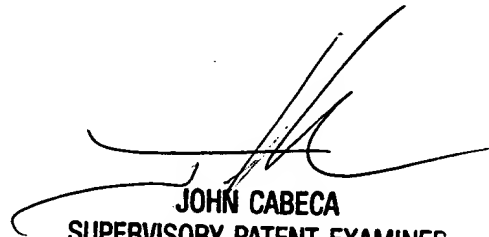
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Becker whose telephone number is (703) 305-7756. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John W. Cabeca can be reached on (703) 308-3116. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smb

JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100